

ADMINISTRATIVE-INTERNAL USE ONLY

9 May 1974

MEMORANDUM FOR:

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Associate General Counsel

SUBJECT : Comments on Proposed Changes in Definition
of Classification Abuses

1. The changes proposed by the ICRC Classification Abuse Definition Subcommittee recommendations of 1 March 1974 and 19 April 1974 are essentially similar, differing in just one important respect. Both recommendations, if adopted, would eliminate the need for reporting errors by authorized classifiers provided that there was a reasonable basis for differences of opinion. The net effect would be to obviate the need for departments to report the following: unnecessary classification, over classification, under classification, unnecessary or improper exemption from the GDS, and the improper application of classification markings. Classification and exemption actions by unauthorized persons would presumably continue to be reported as abuses, as would improper delegations of classification authority.

2. The difference between the two versions is that, whereas the 19 April definition seems to imply that errors involving judgmental factors need never be reported, the 1 March definition stated that such errors should be reported as abuses if they are "repeated and intentional."

3. The Agency can live with the change in reporting requirements. The 19 April definition would be easier to administer in that the requirement in the 1 March definition to report "repeated" errors, even though they involve discretionary judgments, implies the need for a recordkeeping system. In that respect, it represents an improvement over the earlier version. Future classification abuse quarterly reports would consist primarily of cases where unauthorized persons classified documents. Instances of improper delegation of classification authority are rare in the Agency, and, what with the existence of rather comprehensive classification guides in certain Agency components (e.g., DDP 72-3734), authority to exempt documents from the GDS has been extended to a large number of classifiers not authorized to classify at the Top Secret level.

ADMINISTRATIVE-INTERNAL USE ONLY

ADMINISTRATIVE-INTERNAL USE ONLY

- 2 -

4. It is recommended, after taking all factors into consideration, that the Agency support the classification abuse definition proposed in the ICRC Executive Director's memorandum of 19 April 1974.

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